

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

LEON BENZER, *et al.*

Defendants.

Case No. 2:13-cr-00018-JCM-GWF

ORDER

This matter is before the Court on the Motion to Quash Subpoena (#520), filed by non-party witness Tommy F. Deaver.

Mr. Deaver was served with a Subpoena to Testify at a Hearing or Trial in a Criminal Case by Defendant Keith Gregory on or about February 25, 2015. *Motion (#520), Exhibit 2.* Mr. Deaver states that he resides in Midway, Utah which is located more than 400 miles from the United States District Courthouse in Las Vegas, Nevada where his appearance at trial is required by the subpoena. Mr. Deaver moves to quash the subpoena pursuant to Rule 45(c) of the Federal Rules of Civil Procedure which provides that a person may only be required to attend trial within 100 miles of where the person resides.

The Federal Rules of Civil Procedure do not govern a witness subpoena issued in a criminal case. Rule 17(e)(1) of the Federal Rules of Criminal Procedure provides that a subpoena requiring a witness to attend a hearing or trial may be served at any place within the United States. Rule 17(c)(2) provides that on motion made promptly, the court may quash or modify the subpoena if compliance would be unreasonable or oppressive. Because Mr. Deaver bases his motion on the incorrect law, and does not provide evidence that compliance with the subpoena would be unreasonable or oppressive, his motion must be denied. Accordingly,

1 **IT IS HEREBY ORDERED** that Tommy F. Deaver's Motion to Quash Subpoena (#520)
2 is **denied**, without prejudice.

3 DATED this 9th day of March, 2015.

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7 GEORGE FOLEY, JR.
8 United States Magistrate Judge
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